



DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Docket No. SLSDC-2014-0001

2135-AA33

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Preclearance and Security for Tolls; Tolls Assessment and Payment; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; and, Information and Reports. These amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Many of the amendments are merely editorial or for clarification of existing requirements.

DATES: Comments are due [Insert 30 days after date of publication in **Federal Register**].

ADDRESSES: Submit comments to <http://www.Regulations.gov>; or the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-001.

Docket: For access to the docket to read background documents or comments received, go to <http://www.Regulations.gov>; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-001, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764-3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Preclearance and Security for Tolls; Tolls Assessment and Payment; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; and, Information and Reports. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are made, an explanation for such a change is provided below.

REGULATORY NOTICES: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.Regulations.gov>.

The SLSDC is amending several sections of the Condition of Vessels portion of the joint Seaway regulations. In section 401.9, "Radio Telephone Equipment", the two Corporations are proposing to limit the degree of error for gyro and magnetic compasses. Under section 401.10, "Mooring lines", the SLSDC is proposing to mandate the use of synthetic lines when using tie-up services at tie-up walls and docks. Currently the use of synthetic lines is optional. For safety purposes in section 401.14, "Anchor marking buoys", the SLSDC is proposing to amend the rules to require vessels to ensure that the anchor buoy is secured by a suitable line and ready to be released prior to entering the Seaway.

In the Preclearance and Security for Tolls section, the Seaway Corporations are proposing to amend their joint rules in section 401.22, "Preclearance of vessels", to require that past due invoices must be paid prior to transiting the Seaway. In addition, provisions are being proposed that would provide representatives with the ability to obtain a continuous preclearance status.

Several proposed revisions are being made in the Seaway Navigation portion of the regulations. In section 401.29, "Maximum Draft," the SLSDC is proposing to require vessels to meet a minimum draft requirement. In addition, the two Corporations are proposing to require vessels to be equipped with an operational anchor. A proposal to require mooring lines on deck

to be individually attended unless the vessel is equipped with side control is being made in section 401.46, “Attending lines.”

In the Information and Reports section, a change to section 401.79, “Advance notice of arrival, vessels requiring inspection” is being proposed that would require tall ships or vessels of an unusual design to undergo a Seaway yearly inspection.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR Part 401, Regulations and Rules, as follows:

PART 401 – SEAWAY REGULATIONS AND RULES

Subpart A – Regulations

1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a) (4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.2, redesignate paragraphs (b) through (r) as paragraphs (c) through (s) and add a new paragraph (b) to read as follows:

§ 401.2 Interpretation.

* * * * *

(e) E-business means web applications on the St. Lawrence Seaway Management Corporation website which provides direct electronic transmission of data to complete and submit application forms and transit data;

* * * * *

3. In § 401.9, revise the section heading and add new paragraphs (c) and (d) to read as follows:

§ 401.9 Radio telephone and navigation equipment.

* * * * *

(c) Gyro compass error greater than 2 degrees must be serviced prior to transiting the Seaway, and if noted during a Seaway transit, it must be reported to the nearest Seaway station and the gyro compass must be serviced at the first opportunity.

(d) When magnetic compass error is greater than 5 degrees, the vessel is required to have the compass swung and a new deviation card produced, unless the “record of deviations” has been properly maintained and verified.

4. In § 401.10, revise paragraph (c) to read as follows:

§ 401.10 Mooring lines.

* * * * *

(c) Synthetic lines must be used for mooring at approach walls when using tie-up services at tie-up walls and docks within the Seaway.

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5. In § 401.13, revise paragraph (b) to read as follows:

§ 401.13 Hand lines.

* * * * *

(b) Be of uniform thickness and have a diameter of not less than 12 mm and not more than 17 mm and a minimum length of 30 m. The ends of the lines shall be back spliced or tapered; and

* * * * *

6. Revise § 401.14 to read as follows:

§401.14 Anchor marking buoys.

(a) Every vessel shall have its anchors cleared and have the anchor marking buoys free to deploy (weak link to hold buoy line on board) with the buoy lines firmly secured to each anchor and ready to be released prior to entering the Seaway.

(b) Every vessel shall deploy the anchor marking buoy when dropping an anchor in Seaway waters.

7. In § 401.19, revise paragraph (a) and paragraph (b)(2) to read as follows:

§ 401.19 Disposal and discharge systems.

(a) Every vessel not equipped with containers for ordure shall be equipped with a sewage disposal system enabling compliance with the Vessel Pollution and Dangerous Chemicals regulations (Canada), the U.S. Clean Water Act and the U.S. River and Harbor Act, and amendments thereto.

(b) * * *

(2) Retained on board in covered, leak-proof containers, until such time as it can be disposed of in accordance with the provisions of the Vessel Pollution and Dangerous

Chemicals regulations (Canada), the U.S. Clean Water Act and the U.S. River and Harbor Act, and amendments thereto.

* * * * *

8. In § 401.22, revise paragraphs (b)(2), (b)(3) and add a new paragraph (b)(4) to read as follows:

§ 401.22 Preclearance of vessels.

* * * * *

(b) * * *

(2) A change of representative of the vessel,

(3) A material alteration in the physical characteristics of the vessel, until another application for preclearance has been made and approved, or

(4) Past due invoices by the representative as set out in § 401.75.

* * * * *

9. Revise § 401.24 to read as follows:

§ 401.24 Application for preclearance.

(a) The representative of a vessel may, on a preclearance form obtained from the Manager, St. Lambert, Quebec or downloaded from the St. Lawrence Seaway website (www.greatlakes-seaway.com), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel. The form may also be completed and submitted on the Seaway web site via e-business. Preclearance application must be received by the St. Lawrence Seaway between 08:00 – 16:00 hours Monday through Friday excluding holidays and at least 24 hours prior to Seaway inspection or vessel arrival.

(b) For representatives benefitting from the exemption of security tolls as set out in § 401.26(c) and § 401.26(d), a continuous preclearance status may be assigned to all vessels under their responsibility. Validation of the continuous preclearance status will be required every 5 years.

(c) For representatives with a valid security for tolls and a good payment history as set out in § 401.26(c) and § 401.26(d), a continuous preclearance status may be assigned to all vessels under their responsibility. Validation of the continuous preclearance status will be required every year.

(d) In the event that a vessel under the representative's responsibility is modified or upgraded, an application for preclearance will be required to update the vessel's information and reset the vessel's preclearance status.

10. In § 401.26, revise paragraphs (a)(2), (a)(3), (c), and (d) to read as follows:

§401.26 Security for tolls.

(a) * * * *

(2) A letter of guarantee to the Manager given by a financial institution approved by the Manager; or

(3) A letter of guarantee given to the Manager by an acceptable Bonding Company.

Bonding Companies may be accepted if they:

* * * *

(c) (1) Where a number of vessels:

(i) For each of which a preclearance has been given;

(ii) Are owned or controlled by the same individual or company; and

(iii) Have the same representative,

(2) The security for the tolls may not be required if the individual, company or representative has paid every toll invoice received in the preceding five years within the period set out in § 401.75(a).

(d) Notwithstanding paragraph (c) of this section, where a number of vessels, for each of which a preclearance has been given, are owned or controlled by the same individual or company and have the same representative, the security for the tolls may be reduced or eliminated provided the representative has paid every toll invoice received in the preceding five (5) years within the period set out in § 401.75(a). Upon request from the Manager, the representative must provide the Manager with a financial statement that meets the requirements established by the Manager.

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11. In § 401.29 revise paragraph (b) to read as follows:

§ 401.29 Maximum draft.

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(b) The draft of a vessel shall meet a minimum draft requirement as defined at inspection on the ESI form and not, in any case, exceed 79.2 dm or the maximum permissible draft designated in a Seaway Notice by the Manager and the Corporation for the part of the Seaway in which a vessel is passing.

* * * * *

12. Revise § 401.34 to read as follows:

§ 401.34 Vessels in tow.

(a) No vessel that is not self-propelled (including but not limited to tug/tows and/or dead ship/tows) shall be underway in any Seaway waters unless it is securely tied to an adequate tug

or tugs, in accordance with special instructions given by the Manager or the Corporation pursuant to § 401.33 and must be equipped with an operational anchor.

(b) Every vessel in tow has to be inspected prior to every transit unless it has a valid Seaway Inspection Certificate. The owner/master shall give a 24 hour notice of arrival when an inspection is required.

13. In § 401.46 add new paragraph (c) to read as follows:

§ 401.46 Attending lines.

* * * * *

(c) Mooring lines on deck must be individually attended unless the vessel is equipped with side control and visual contact must be maintained for signal from lock employees taking or letting go of mooring lines.

14. In § 401.52 revise paragraph (b) to read as follows:

§ 401.52 Limit of approach to a bridge.

* * * * *

(b) No vessel shall pass the limit of approach sign at the twin railway bridges on the South Shore Canal at Kahnawake, until both bridges are in a fully open position and both signal lights show green.

15. In § 401.68, revise the section heading and paragraph (c) to read as follows:

§ 401.68 Explosives permission letter.

* * * * *

(c) A written application for a Seaway Explosives Permission Letter certifying that the cargo is packed, marked and stowed in accordance with the *Transportation of Dangerous Goods Regulations* (Canada), the United States regulations under the *Dangerous Cargo Act* and the

International Maritime Dangerous Goods Code, may be made to the St. Lawrence Seaway Management Corporation, 202 Pitt Street, Cornwall, Ontario, K6J 3P7, or to the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York, U.S.A. 13662.

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16. In § 401.74, revise paragraphs (a) and (f) to read as follows:

§ 401.74 Transit Declaration.

(a) A Seaway Transit Declaration Form (Cargo and Passenger) shall be forwarded to the Manager by the representative of a vessel, for each vessel that has an approved preclearance except non-cargo vessels, within fourteen (14) days after the vessel enters the Seaway on any up bound or down bound transit. The form may be obtained from the St. Lawrence Management Corporation, 151 Ecluse Street, St. Lambert, Quebec, J4R 2V6 or downloaded from the St. Lawrence Seaway website at www.greatlakes-seaway.com. The form may also be completed and submitted on the Seaway website via e-business.

* * * * *

(f) Seaway Transit Declaration Forms shall be used in assessing toll charges in accordance with the *St. Lawrence Seaway Schedule of Tolls*, and toll accounts shall be forwarded to the representative or its designated agent.

* * * * *

17. In § 401.75, revise paragraph (b) and add a new paragraph (d) to read as follows:

§401.75 Payment of tolls.

* * * * *

(b) Tolls established by agreement between Canada and the United States, and known as the *St. Lawrence Seaway Schedule of Tolls*, shall be paid by pleasure crafts with prepaid tickets

purchased in Canadian funds using credit card ticket dispensers located at pleasure craft docks or Paypal on the Seaway website. At U.S. locks, the toll is paid in U.S. funds or the pre-established equivalent in Canadian funds or through payment via Pay.gov on the Seaway website.

* * * * *

(d) Vessel representatives with past due toll accounts, unpaid after 45 days, may be subject to the suspension of preclearance for each vessel of which a preclearance has been given and/or the immediate removal of the waved security for the toll charges set in § 401.26(c) and § 401.26(d.)

18. In § 401.79, add a new paragraph (b)(5) to read as follows:

§401.79 Advance notice of arrival, vessels requiring inspection.

* * * * *

(b) * * *

(5) A tall ship or vessel of an unusual design is subject to Seaway yearly inspection.

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Issued at Washington, D.C. on January 22, 2014.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

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Chief Counsel

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